Leola City Council Meeting

November 4, 2019

The city council met on November 4, 2019 and was called to order at 7:38 pm by Mayor Thomas Theisen. Present were council members Michael Yost, Lindsey Bollinger, Richard Reis, Gayle Seibel, Jackie Rau; city employees Jeff Tschappat and Sondra Waltman; and Economic Development Director Jacki Hoffman.

The October minutes were presented, and Yost moved to approve, seconded by Bollinger. All in favor. The Treasurer’s report was presented, Reis moved to approve, seconded by Rau. All in favor. The bills were presented, Yost moved to approve, seconded by Bollinger. All in favor.

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| **Bills to be Considered** | | |
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| Aberdeen Awards | Plaque | $ 45.00 |
| Agtegra | Supplies | $ 77.96 |
| AmeriPride | Office Services | $ 135.82 |
| Auto-Owners Insurance | Auto Policy, renews 12/1/19 | $ 787.51 |
| Cahill Bauer & Assoc | 2018 Audit | $ 1,687.50 |
| Candice Kappes | Monthly Consult Fee | $ 1,000.00 |
| Code Enforcement Specialist | Professional Services | $ 397.03 |
| Council Payroll | Food Boxes/Pam Walz | $ 19.59 |
| Deb Weiszhaar | Meals/Supplies Reimbursement | $ 67.50 |
| DMI | Repairs | $ 93.36 |
| Finance Officer Salaried Position | FO Fund - November | $ 3,992.53 |
| Fire Safety, LLC | Fire Ext. Inspection | $ 89.50 |
| Floor to Ceiling | Housing Redevelopment | $ 2,376.85 |
| Gene's Oil | Heating Oil/Gas/Fuel | $ 1,429.60 |
| Government Building Payroll | Custodian - October | $ 764.10 |
| Habitat Management Solutions LLC | Spraying | $ 653.50 |
| Heartland | Office Supplies | $ 66.42 |
| Homestead | Supplies | $ 42.92 |
| Leola Library | Books/Supplies | $ 258.89 |
| Library Payroll | Librarian - October | $ 762.27 |
| Maintenance Salaried Position | Streets/Park Funds - November | $ 3,178.49 |
| Maintenance Salaried Position | Water/Sewer Funds - November | $ 3,237.93 |
| McPherson Co Herald | Publishing | $ 213.41 |
| McPherson Co Hwy Dept | Chip Sealing | $ 29,466.69 |
| Menards | Cleaning Supplies | $ 107.04 |
| Montana Dakota Utilities | Utilities | $ 2,773.77 |
| Office Department | Deb Weiszhaar/October | $ 732.88 |
| Pam Walz | Books/Supplies | $ 227.38 |
| Pam Walz | Food boxes - mileage | $ 33.60 |
| Post Office | Postage (water) | $ 7.35 |
| Productivity Plus Account | Repairs | $ 170.87 |
| Public Health | Water Samples | $ 339.00 |
| SD One Call | Professional Services | $ 33.60 |
| Sondra Waltman | Reimbursement (postage, meals, mileage) | $ 273.20 |
| Streets/Chip removal - hourly | Ray Hartinger/October | $ 88.17 |
| Thomas Theisen | Office Supplies | $ 3,299.38 |
| Valley | Utilities | $ 442.09 |
| Web Water | October Use | $ 6,570.75 |
| Zoning Payroll | Rich Reis - October | $ 86.12 |
|  | **TOTAL:** | $ 66,029.57 |
| **Project Pay Requests:** |  |  |
| Helms & Associates |  | $ 27,589.10 |
| Premier Contracting |  | $ 103,968.00 |
| Dahme Construction |  | $ 109,507.30 |
| City of Leola | Computer/Installation | $ 2,436.20 |
|  | **TOTAL:** | $ 243,500.60 |

Council member Tim Collins joined the meeting at 7:45 pm.

The current water project was reviewed. The contractors are discovering a few hiccups regarding water lines and if you feel you are out of water and shouldn’t be, please contact the city office. If there is an outage that wasn’t intended, we can only fix the problems that we are aware of. Once the city is aware of an anticipated outage, notices are posted on the city’s website, facebook page and noted in the city office.

McPherson County Deputy Sheriff Allie Hilgemann joined the meeting at 8:00 pm. She presented her county law report for October. There were no questions related to the report, and she left at 8:05 pm.

There was a public hearing regarding the approval of the special liquor license for the Turkey Raffle to be held November 23, 2019. There were no objections from the public, so Bollinger moved, and Collins seconded the approval.

Jeff Tschappat reported on the Restricted Use Site noted it is officially closed to the public until April. Security precautions were discussed regarding trespassing violations. The committee for streets and alleys stressed to prioritize clear roadways/alleys for emergency personnel.

The council urged the city employees to document/schedule water sampling and reports. Under Parks/Rec/Pool, it was reported that garbage services have been suspended in seasonal areas, pools and parks have been winterized and the power can be shut off. The pool committee will handle and consider job descriptions/posting of positions and any other concerns. Regarding the current projects and timelines, it was again stressed to have an open communication channel.

Building and equipment rendered the questions of what we need verses what we already have that can be used for snow removal. The loader is up and running and the city also has a telehandler. The telehandler can be used to push and dump snow but isn’t ideal for loading. The council decided to have the maintenance guys choose three options that would best suit their needs regarding the payloader, and the council will explore financing/lease options available. The lawn mower previously discussed is being postponed until the Golf Association meets and further explores their options.

Under the code enforcement, law enforcement and library committee, the library report was reviewed. Also discussed were concerns with Mike Olson’s retirement and where current issues stand. The city hasn’t received any follow up reports and hasn’t heard back from Mike Olson. A follow up call is scheduled. It was discussed to review current city ordinances and update if needed. Garbage concerns that were brought to the city’s attention have hopefully been resolved. If not, a follow up will be made and then reported to Mike Olson.

The zoning committee noted additional building permits issued. Another concern was the amount of time allocated to locating lot/property lines to citizens without a building permit. The Zoning Board met prior to the city council meeting and decided that property lines will only be measured and marked when a building permit is being issued. Concerns about property lines will have to go through an official surveyor and not the Zoning Administrator.

Economic Development Director Jacki Hoffman presented the council with her status report and ideas regarding community enhancements. Both grants that are on the table are waiting for the next steps: the trail grant is waiting for an update from NECOG and the pool liner grant is waiting for the engineer to shed some insight/recommendations. Hoffman explained the importance of community enhancements, including suggestions as “Welcome to Leola” signs similar to other communities and upgrading the Leola website. Upcoming meetings were noted, and she encouraged everyone to attend. Mollie B is coming to Leola and ArtC is looking for donations. Bollinger motioned to donate $500 out of the 2019 budget and Council member Reis seconded. Siebel abstained from voting. Motion passed. Hoffman also mentioned that if Leola is more appealing, we could potentially pull some new businesses into town AND successfully keep the businesses that we already have.

Collins left the meeting at 9:10 pm.

Old business was covered. An item list was presented to the council to be reviewed. Rau moved to surplus all the items and Yost seconded. All in favor. Rau motioned to open the propane tank for bids, Bollinger seconded. All in favor. The city’s FEMA submission for reimbursement from March 2019 is nearly completed. Lighting concerns in the Citizen’s Building were mentioned, so the council will seek quotes for replacement of the twelve lights. New office equipment needs were reviewed. Rau motioned and Bollinger seconded to approve a new computer for the Assistant Finance Officer, update QuickBooks to 2020 version, replace the desk phone, and update the software on the existing laptop. All in favor.

Other than the council, no citizens were present for public comments.

New business was covered. The City Office will be closed on Monday, November 11 for Veteran’s Day, Thursday, November 28 and Friday, November 29 for the Thanksgiving Holiday. The 2018 audit report was reviewed and signed for acceptance.

A FEMA Mitigation Plan Update was discussed and reviewed. The city’s current plan expires December 2019. Mitigation Plan Update: members from Leola, Eureka, and McPherson County attended a mitigation planning meeting at the County Courthouse on October 24, 2019.  Staff from NECOG led the meeting.  The purpose of the mitigation planning meetings is to collect input and information for the County’s plan.  Having an updated Hazard Mitigation Plan is a requirement by FEMA for any jurisdiction (city, county, State, tribe) that desires to remain eligible for Hazard Mitigation Grant Program (HMGP) funding.  HMGP funding is a grant program that covers 75% of the costs to complete mitigation projects.  HMGP funding can be used for construction of projects that mitigation (reduce or eliminate) the threat of natural hazards or prevent loss of life, loss of property, or loss of infrastructure.  Examples of eligible HMGP activities include: powerline burial, construction of storm shelters, construction of or improvements to storm sewers, acquisition or relocation of homes or businesses located in floodprone areas, creation of defensible space, and installation of backup generators to run critical facilities in the event of power loss.  There are many other types of projects that are eligible for consideration in this program.  Through the mitigation process, projects are identified for each participating jurisdiction.  After the projects are identified, they are prioritized, and included in the mitigation strategy section of the plan.  NECOG requested that participating jurisdictions (city and county officials) as well as members of the public provide information and/or comments about possible mitigation projects to be included in the plan.  Written comments can be emailed to [jennifer@necog.ord](mailto:jennifer@necog.ord) or mailed to NECOG at 416 Production Street N., Suite #1, Aberdeen SD 57401.

New business also included the upcoming insurance renewal. The auto policy was approved to renew (12/1/19) and the other policy to renew 1/1/2020 will be reviewed in depth at the December meeting. There is an abundance of Quasquicentennial merchandise available. The council decided to sell everything for $1, effective immediately. The Cable TV Franchise agreement with Valley Telecommunications, Ordinance 2019-03 was read for the first time. A second reading and public hearing will be December 2, 2019 at the city council meeting. Seibel motioned and Bollinger seconded to set the hearing for 8 pm.

**Ordinance No. 2019-03 – Cable TV Franchise**

AN ORDINANCE GRANTING A FRANCHISE TO VALLEY TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, INC., TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, RECONSTRUCT AND REMOVE A BROADBAND COMMUNICATIONS SYSTEM FOR THE PURPOSE OF RECEIVING, TRANSMITTING AND DISTRIBUTING THE VARIOUS SIGNALS TO THE INHABITANTS OF THE TOWN OF LEOLA FOR A PERIOD OF TWENTY (20) YEARS, TOGETHER WITH THE RIGHT TO CONSTRUCT, OPERATE, MAINTAIN, REPAIR, REPLACE, RECONSTRUCT AND REMOVE SAID SYSTEM IN, UPON, ALONG, ACROSS, ABOVE, OVER AND UNDER THE STREETS, ALLEYS, PUBLIC WAYS AND PUBLIC PLACES AS PRESENTLY EXIST, AND ALL EXTENSIONS AND ADDITIONS THEREOF FOR ALL CABLES, LINES, CONDUITS, MANHOLES AND OTHER APPARATUS AS MAY BE NECESSARY FOR THE OPERATION AND MAINTENANCE OF SAID SYSTEM.

BE IT ORDAINED BY THE TOWN OF LEOLA, SOUTH DAKOTA:

I. TITLE

This franchise ordinance shall be known and may be cited as the Leola Broadband Communications System Franchise Ordinance.

II. DEFINITIONS

SECTION 1. “Broadband Communications System” shall mean all of the component physical, operation, and programming elements of any network of cables, optical, electrical or electronic equipment, including cable television, used for the purpose of transmission of electrical impulses of television, radio and other intelligences, either analog, digital or by any other means to provide various Broadband Communications Service.

SECTION 2. “Broadband Communications Service” shall include all of the wideband and narrow-band services now available or that may be available during the term of this franchise.

SECTION 3. “Town” is the Town of Leola, South Dakota.

SECTION 4. “Company” hereinafter shall mean Valley Telecommunications Cooperative Association, Inc. of Leola, South Dakota.

SECTION 5. “Council” is the elected Town Council of the Town of Leola, South Dakota.

SECTION 6. “Facilities” include, but are not limited to, cables, modulators, towers, antennae and apparatus designed, constructed and/or wired for the purpose of receiving, transmitting and distributing television and other various signals.

SECTION 7. “FCC” means the Federal Communications Commission.

SECTION 8. “Person” means any corporation, partnership, proprietorship, individual, organization, governmental entity or any natural person.

SECTION 9. “RUS” means USDA’s Rural Utilities Service.

SECTION 10. “Streets” means the surface of, and the space above and below, in, along and across any public street, road, highway, bridge, tunnel, lane, path, bike path, alley, court, sidewalk, park-way, drive, utility easement or right-of-way by whatever name called, now or hereafter existing as such within the franchise area.

SECTION 11. “Subscribers” means any Person that lawfully elects to subscribe to broadband communications services furnished under this franchise by the Company.

III. GRANT OF NON-EXCLUSIVE AUTHORITY

The Town of Leola hereby grants to Valley Telecommunications Cooperative Association, Inc. a Broadband Communications System Franchise, subject to the terms and conditions of this Franchise Agreement. This Franchise Agreement provides the rights and privilege to construct, reconstruct, operate, maintain, repair, replace and remove in, upon, along, across, above, over and under the streets, alleys, public ways and public places now existing or dedicated and all extensions of and additions thereto in the Town, all facilities, television conductors and fixtures necessary for the maintenance and operation in the Town of a broadband communications system for the purpose of providing all broadband services of the present and future to the public for a period of twenty (20) years.

IV. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

The Company shall, during the term hereof, except in those areas that have been pre-empted by the Cable Communications Policy Act of 1984 as amended, or that are regulated by the FCC, be subject to all lawful exercise of the regulating and police powers of the Town.

V. TERRITORIAL AREA INVOLVED

SECTION 1. This Ordinance relates to the present territorial limits of the Town and to any area annexed thereto during the term of the Ordinance. Company shall not be required to furnish service to any customer farther than 200 feet from a customer then wired and receiving Company’s service, except in cases where not less than six (6) subscribers are within 900 feet of a wired customer receiving Company’s service and request service.

SECTION 2. In the event the requirement of SECTION V, SECTION 1, is not met, extensions of service shall be required only on a basis that is reasonable and compensatory.

SECTION 3. Company may, but shall not be required to, serve areas or individual homes adjoining, but outside the Town limits, that may be served from its existing facilities. Company may negotiate directory with such customers the amount to be charged for the bringing of the service to the customer.

VI. LIABILITY AND INDEMNIFICATION

SECTION 1. The Company shall maintain at all times sufficient and adequate insurance coverage as required by law and in accordance with the requirements of RUS.

SECTION 2. The Company shall at all times protect and save harmless the Town from all damages and injury arising out of or by any reason of the construction, maintenance and operation of said broadband communications system.

VII. TECHNICAL STANDARDS

The Company shall meet the requirements of the technical standards established by RUS and the FCC, which said standards are acceptable to the Town.

VIII. CONSTRUCTION, OPERATION AND MAINTENANCE OF SYSTEM

SECTION 1. Whenever new construction is necessary, the Company may commence construction upon receiving all necessary and proper FCC and RUS permits, waivers, certifications, and approvals.

SECTION 2. Construction shall comply with the National Electrical Code and RUS Specifications.

SECTION 3. The Company shall maintain a sufficient number of employees to provide safe, adequate, and prompt service and repairs of its facilities, and periodically make system evaluation tests.

IX. NEW DEVELOPMENTS

This Franchise shall allow the Company to take advantage of new developments in technology and state-of-the art improvements in providing the best service at a reasonable cost.

X. CONDITIONS ON STREET OCCUPANCY

SECTION 1. All facilities installed by the Company within the Town shall be located so as to cause minimum interference with the proper use of streets, alleys or other public ways and places. Said fixtures shall be removed and relocated at Company’s expense whenever the same would restrict or obstruct the operation or location of any future street in the Town.

SECTION 2. All of said facilities shall be constructed, maintained and operated under the supervision of the Company. Plans for all facilities to be constructed will be coordinated with the proper Town officials. The Company shall at all times maintain an up-to-date record of location of all its facilities, and shall provide any related information required by Town personnel.

SECTION 3. In the event of disturbance of any street, the Company shall, at its own expense and in a manner approved by the street department, replace and restore such street in as good condition as before such disturbance, insofar as the same may be practicable.

SECTION 4. The Company shall, at the request of any contractor hired by the Town, or any person, located free of charge, any of its facilities. The Company shall be given not less than 24 hours advance notice of such locations, except for qualified emergencies, such as broken water mains, etc. Damage to any facilities located will be billed to the contractor.

SECTION 5. Any property of the Company that Company elects to abandon in place shall be abandoned in such a manner as the Town may prescribe.

XI. REMOVAL OF FACILITIES UPON REQUEST

The Company shall, at its own expense, remove, disconnect and relocated any of its facilities when required by the Town by reason of traffic conditions, public safety, street vacation or construction, change or establishment of street grade, installation of sewers, drains, water pipes and/or power lines.

XII. RATES

SECTION 1. The Company shall adopt and maintain on file at its office a schedule setting forth all rates and charges to be made to subscribers for each type of service available.

SECTION 2. The Company may adopt and regulate fair and reasonable rates in accordance with Section 623 of the Cable Communications Policy Act of 1984.

XIII. EMERGENCY USE OF FACILITIES

In the event of any emergency or disaster, the Company shall, upon request of the Town Council, make available whenever possible its facilities to the Town during such emergency or disaster period.

XIV. SAFETY REQUIREMENTS

The Company shall at all times use ordinary care, and shall maintain commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury or nuisance to the public.

XV. TRANSFER OF FRANCHISE

The Company shall not transfer this Franchise to another person without prior approval of the Town Council.

XVI. DURATION OF FRANCHISE

This Franchise and the rights, privileges and authority hereby granted herein shall take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of twenty (20) years.

XVII. TAMPERING

SECTION 1. It shall be unlawful for any person or persons to obtain any communications service from the Company by installing, rearranging or tampering with any facilities or equipment of said Company for the purpose of receiving any signal, picture, sound or transmission, without subscribing and paying the Company therefore.

SECTION 2. Any person violating this Article shall be guilty of a misdemeanor punishable by a fine of not to exceed $100.00, imprisonment for a term not to exceed thirty (30) days, or both.

XVIII. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions herein. The Town hereby agrees not to amend, alter or change this Franchise Ordinance without the prior express written consent of the Company.

XIX. PUBLICATION

The Company shall assume the cost of publication of the Franchise and file its acceptance thereof.

APPROVED: ATTEST: (SEAL)

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Mayor Finance Officer

First Reading: 11/4/2019

Second Reading: 12/2/2019

Adopted: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Published: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

A shot clinic through the Wetonka Vet Clinic will be held on Thursday, December 5 from 4-7 pm at the city shop. This gives residents the opportunity to get their dog(s) up to date with shots so they can then register the dog(s) with the city.

Reis introduced the following resolution and Seibel seconded. Resolution 19-03 is as follows:

Resolution 19-03, Resolution to Lease City Owned Property

SDCL 9-12-5.2 mandates any municipality that owns rental property and decides to lease the property for longer than 120 days and fees for such lease will exceed $500 per year, said municipality shall be resolution of intent and the City of Leola owns such property (Medical Building) and the City of Leola wants to lease such property and such leases will exceed the 120 days/$500 per year limit set by SDCL 9-12-5.2 now, therefor a public hearing shall be held on Monday, December 2nd, 2019 at 8:10 pm in the council room of the Municipal Building. Anyone and/or their attorney may appear before the council to show just cause.

The council also reviewed upcoming Christmas highlights. The community will be represented with a decorated tree at the Capitol in Pierre, the city office will host the Angel tree organized by FBLA again this year, and office party discussion will be noted at the next meeting.

At 10:30, Rau moved to go into executive session, seconded by Bollinger. Executive session ended at 11:30 with no action taken. Reis motioned to adjourn the meeting, seconded by Bollinger, and the November council meeting concluded at 11:30 pm.

The next council meeting is scheduled for December 2nd at 7:30 pm.

ATTEST:

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Thomas W. Theisen, Mayor of Leola Sondra Waltman, Finance Officer

The City of Leola is an equal opportunity provider and employer.

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